

09-10-07

Hej



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Lingyu Zhu *et al.*

Confirmation No.: 5561

Serial No.: 10/629,892

Art Unit: 1653

Filed: July 29, 2003

Examiner: Robert B. Mondesi

For: METHODS OF USING NON-HUMAN
ANIMAL APOLIPOPROTEIN
A-I PROTEIN

Attorney Docket No: 10173-084-999
(371855-999079)

Handwritten signature: J. Hej

AMENDMENT AND RESPONSE UNDER 37 C.F.R. §1.111

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action mailed May 28, 2004, please amend the above-identified application as follows:

Listing of the claims begins on page 2 of this paper; and

Remarks/Arguments begin on page 8 of this paper.

Submitted concurrently herewith is a petition to extend the time for response for one (1) month, from August 28, 2004, to and including September 28, 2004, with provision for payment of the required fee.

at the claimed invention, and thus does not render the instant invention obvious. *In re Lahu*, 747 F.2d at 1257.

Dasseux *et al.* does not remedy the deficiencies of Shackelford and Lebherz. Indeed, Dasseux teaches away from natural material by emphasizing the benefits of specific synthetic peptides over natural proteins. The Dasseux' sequences of small non-natural peptides are not related to the natural non-human compounds of the instant invention.² Neither of citation alone or in combination teaches or suggests a purified non-human animal ApoA-I protein/lipid complex and a pharmaceutical composition comprising such complex as claimed in the instant invention, and thus does not render the instant invention obvious. Accordingly, it is respectfully requested that the rejection be withdrawn.

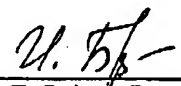
CONCLUSION

Applicants submit that Claims 16-21 and 39-68 satisfy all the criteria for patentability and are in condition for allowance. An early indication of the same is therefore kindly solicited.

No fee is believed to be due at this time. However, if the Office determines that a fee is, in fact, due, pursuant to 37 C.F.R. §1.136 (a)(3), the Commissioner is authorized to charge all required fees, fees under 37 C.F.R. §1.17 and all required extension of time fees, or credit any overpayment, to Jones Day U.S. Deposit Account No. 503013 (Attorney Docket No. 10173-084-999).

Respectfully submitted,

Date: September 9, 2004



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² Since Dasseux *et al.* provides no discussion of non-human natural peptides, there is no motivation to use non-human natural peptides at all, and one may argue that there is no motivation to combine the references cited by the Examiner. See *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).